

FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION

SEP 24 PM 1:14
U.S. DISTRICT COURT
N.D. OF ALABAMA

ANTHONY JAMES CABLE,

]

Petitioner,

]

vs.

CIVIL ACTION NO. 95-N-1224-NE

WARDEN LARRY BURTON
and THE ATTORNEY GENERAL
FOR THE STATE OF ALABAMA,

]

Respondents.

]

ENTERED
SEP 24 1997

MEMORANDUM OF OPINION

The court has considered the entire file in this action, together with the Magistrate Judge's Report and Recommendation of August 6, 1997, and the objections of the petitioner, and has reached an independent conclusion that the Magistrate Judge's Report and Recommendation is due to be adopted and approved. The court hereby adopts and approves the findings and recommendation of the magistrate judge as the findings and conclusions of the court.

The court notes that on August 14, 1997, the petitioner filed a motion to amend his petition in this action to add "all claims raised on direct appeal and in the Rule 20 petition which have been properly presented to the state trial and appellate courts and are exhausted and ripe for consideration on fed[eral] habeas corpus review." In an order granting the motion to amend, the petitioner was instructed to file by September 3,

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1997, an amended petition, specifically setting forth each of the claims he intended to raise. Additionally, the petitioner requested an extension time in which to object to the magistrate judge's recommendation. The petitioner was informed that the deadline for objecting to the magistrate judge's original recommendation would be extended to allow him to object to the original recommendation at the same time he filed objections to the recommendation that would be entered on the amended petition. However, on August 22, 1997, the petitioner filed objections to the report and recommendation. To date, he has not filed the amended petition required by the court to be filed by September 3, 1997. Thus, the court concludes that Cable no longer intends to file an amended petition in this action.

In accord with the recommendation of August 6, 1997, this petition for a writ of habeas corpus is due to be dismissed. An appropriate order will be entered.

DONE this 24th day of September, 1997.



EDWIN L. NELSON
UNITED STATES DISTRICT JUDGE